

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 1127 (Senators Hershey and Ready)
Education, Health, and Environmental Affairs

Procurement Contracts - Disclosures to Secretary of State - Beneficial Ownership

This bill alters the definition of “beneficial ownership” under State procurement law, which alters the types of individuals who must disclose their ownership stake in businesses that have contracts with the State.

Fiscal Summary

State Effect: The bill is procedural in nature and has no material effect on State governmental operations or finances.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary: “Beneficial ownership” means:

- an ownership interest of 25% or more in a business, trust, or in one or more entities in a chain of parent or subsidiary entities, any one of which participates in at least 25% of the capital or profits of a business or trust;
- possession of an interest that exists under an agreement, contract, relationship, understanding, or other arrangement that entitles a person to benefits substantially equivalent to an ownership interest of 25% or more of a business or trust; or
- any ownership interest with significant responsibility to control, manage, or direct a business or trust, including acting as an executive officer or a senior manager.

Current Law: If, during a calendar year, a business enters into contracts, leases, or other agreements with the State under which the business is to receive from the State a total of \$200,000 or more, the business must file a report with the Secretary of State within a specified timeframe that discloses the name and address of:

- any resident agent of the business;
- each officer of the business; and
- if known, each person who has beneficial ownership of the business.

“Beneficial ownership” is defined as:

- an ownership interest of 5% or more in a business or in one or more entities in a chain of parent or subsidiary entities, any one of which participates in at least 5% of the capital or profits of a business; or
- possession of an interest that exists under an agreement, contract, relationship, understanding, or other arrangement that entitles a person to benefits substantially equivalent to an ownership interest of 5% or more of a business.

If a person who has beneficial ownership is unknown to a business, it is sufficient for the business to disclose the legal ownership or the identity of the nominee who holds title for the unknown person. A business or officer of a business who violates the disclosure provisions is guilty of a misdemeanor and on conviction is subject to a fine up to \$10,000.

Background: Raising the ownership stake threshold from 5% to 25% likely reduces the number of individuals who must disclose their ownership stake in affected businesses. However, adding trusts to the definition of beneficial ownership likely requires additional individuals to disclose their ownership stakes. The additional requirement to disclose individuals with significant responsibility for the company may also increase the number of people who must disclose their ownership, but officers of a business are already required to be disclosed, so it is unclear how many individuals will be affected.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Secretary of State; Department of General Services; Department of Legislative Services

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